

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

SANA LEE SANFORD,

Movant

v.

CIVIL ACTION NO. 2:06-01052
(Criminal No. 2:99-00197)

UNITED STATES OF AMERICA,

Respondent

MEMORANDUM OPINION AND ORDER

Pending before the court is the motion of Sana Lee Sanford pursuant to 28 U.S.C. § 2255, filed December 18, 2006.

Movant seeks the vacatur, set aside, or correction of his sentence of 135 months on Count Two of the indictment following his plea of guilty. The court of appeals affirmed the judgment, and the movant's conviction became final on April 23, 2001, after the Supreme Court denied a writ of certiorari.

On December 22, 2006, the Honorable Mary E. Stanley, United States Magistrate Judge, entered her proposed findings and recommendation. The magistrate judge recommends that the motion be denied inasmuch as the movant has instituted this action outside the applicable limitations period provided by section 2255. On January 10, 2007, the movant objected.

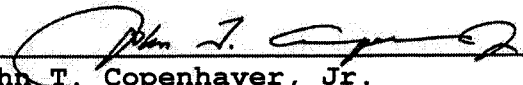
Movant's objections distill to the notion that laymen unschooled in the area of post-conviction relief should be excepted from the effect of the statutory one-year limitations period. As the magistrate judge notes, equitable tolling is the only basis upon which movant might circumvent the statutory bar. As further discussed by the magistrate judge, however, the circumstances advanced by the movant do not approach the heightened showing required in this circuit to obtain relief from the limitations bar.

Based upon the foregoing discussion and the proposed findings and recommendation of the magistrate judge, which are adopted and incorporated herein, the court accordingly concludes that movant's section 2255 motion should be denied.

It is, therefore, ORDERED that the movant's motion pursuant to 28 U.S.C. § 2255 be, and it hereby is, denied.

The Clerk is directed to forward copies of this written opinion and order to the movant, all counsel of record, and the United States Magistrate Judge.

DATED: January 16, 2007



John T. Copenhaver, Jr.
United States District Judge